

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 91 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT STATE FOREST

DEVELOPMENT CORPORATION LTD.

Versus

STATE OF GUJARAT

Appearance:

MR KS NANAVATI for Petitioners
PUBLIC PROSECUTOR for Respondent No. 1
UNSERVED for Respondent No. 2, 7, 8
MR SHANTILAL S SHAH for Respondent No. 3
SERVED for Respondent No. 5

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 10/04/97

ORAL JUDGEMENT

1. This petition has been filed by the Gujarat State Forest Development Corporation, challenging the judgment and order passed by the learned Judicial Magistrate, First Class, Chota-Udepur, dated 31.12.1984, so far as it

relates to the return of the amount of price of Mhowra Doli, which was sold on seizure, and the amount of which is lying with the Corporation under the orders of the Court.

2. The case of the Corporation is that, on 2.8.1982, truck No.GTH 7064 was passing by Ambala Police Station, which was loaded by 64 bags of Mhowra Doli, weighing 4160 kg. The owner of the said goods was one Sajjatali Akbarali Vora. He was carrying Mhowra Doli, a minor forest produce, without the permission of the Corporation. In view of this, a complaint was filed against the accused persons for offence under Section 3(1) of the Gujarat Minor Forest Produce Nationalisation Act, 1979 (hereinafter referred to as "the Act of 1979"). The learned Magistrate, by the order dated 31.12.1984 acquitted the accused and also passed the order for return of the price of Mhowra Doli to the accused persons.

2. It is contended by the learned counsel that under Section 3 of the Act of 1979, there is a restriction on trade, purchase or transport of minor forest produce. Sub-section (3) of Section 6 provides that if the Corporation is appointed by the State Government as its sole agent under the Section, it shall be lawful for the Corporation to authorise any person including its officers for the purpose of selling, purchasing or transporting any minor forest produce on its behalf under the provisions of the Act. It is contended by the learned counsel that under the conditions of the agreement and the rules and regulations of the Corporation, the agent appointed by the Corporation is not entitled to sell the goods to anyone except the Corporation. The agent is entitled to purchase price and the commission thereof and nothing more than that. I have considered the contention of the learned counsel. None appears for the accused respondents No.2 to 8 in spite of the notice. Learned A.G.P. supports the contention of the petitioner. Having considered the scheme of the Act and the agreement, I find substance in the contention of the petitioners. The petitioner-Corporation was not heard before passing the part of the order so far as it relates to return of the amount of the price of Mhowra Doli is concerned.

3. In view of the aforesaid, this Special Criminal Application is allowed and the order of the Judicial Magistrate, First Class, Chota-Udepur dated 31.12.1984 so far as it relates to the return of the price of Mhowra Doli which was sold on seizure and the amount of which is

lying with the Corporation is quashed and set aside.
Rule made absolute to the aforesaid extent.

...